

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LUJUAN McCANTS,

Petitioner,

Case No. 2:20-cv-13166

Hon. Denise Page Hood

v.

WILLIS CHAPMAN,

Respondent.

/

ORDER DENYING MOTIONS FOR CONTEMPT

This is a habeas action brought by a state prisoner under 28 U.S.C. § 2254. Respondent has now filed the state court record and a responsive pleading. Petitioner sent subpoenas to state trial judges, which the Court granted the motions to quash the subpoenas, and the state prosecutor, requesting copies of documents related to his underlying state conviction.

“A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of ordinary course.” *Bracy v. Gramley*, 520 U.S. 899, 904 (1997). Rather, a habeas petitioner hoping to benefit from the discovery procedures set forth in the Federal Rules of Civil Procedure must first demonstrate good cause. Rule 6(a) of the Rules Governing Section 2254 Cases, 28 U.S.C. foll. § 2254. Petitioner has not moved for an order compelling discovery. He has not shown good cause for the requested materials, and he is not entitled to compel the state trial judge and prosecutor to provide records to him on his own authority.

Under the federal rules governing habeas corpus proceedings, Respondent is required to submit all transcripts and other documents relevant to the determination of the habeas petition at the time the answer is filed. Rule 5 of the Rules Governing Section 2254 Cases, 28 U.S.C. foll. §

2254. Further, pursuant to Habeas Corpus Rule 7, the Court “may direct the parties to expand the record by submitting additional materials relating to the petition.” Rule 7 of Rules Governing Section 2254 Cases, 28 U.S.C. foll. § 2254. After Respondent files its responsive pleading and the Rule 5 materials, if Petitioner believes the record presented to the Court is insufficient to adjudicate his claims, he may at that time file a motion to compel Respondent to file any additional Rule 5 material or for discovery.

For these reasons, the Court **DENIES** Petitioner’s Motions to Hold in Contempt Judge Michael E. Servitto (ECF No. 18) and Macomb Prosecutor Emil Semaan (ECF No. 20).

SO ORDERED.

s/Denise Page Hood
Hon. Denise Page Hood
United States District Judge

Dated: March 30, 2022